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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE CATHODE RAY TUBE (CRT) ANTITRUST
LITIGATION

MDL No 1917

Master Case No 3:07-cv-05944SC

THIS ORDER RELATES TO:
ALL CASES

**ORDER RE MITSUBISHI'S MOTION TO
COMPEL VIEWSONIC PERCIPIENT WITNESS
DEPOSITIONS AND COORDINATION OF
DISCOVERY**

1 An issue of potential concern to all parties has arisen in the context of
2 Mitsubishi's Motion to Compel ViewSonic Percipient Witness Depositions. Since the above-
3 referenced motion was originally filed on behalf of the Mitsubishi Defendants¹ (collectively,
4 "Mitsubishi"), Mitsubishi and ViewSonic have settled their dispute (see Order, Docket No 3846).
5 Now ViewSonic wishes to have the motion withdrawn from consideration.

6 But counsel for Chunghwa Picture Tubes and LG Electronics, Inc have written to
7 express the view that the Motion to Compel ViewSonic Percipient Witness Depositions remains
8 a live motion as to the remaining defendants. 5/28/15 Brass Ltr at 1. Citing the court's
9 Discovery Protocol, requiring all defendants' counsel to engage in best efforts to coordinate
10 discovery efficiently and without duplication (Dkt 1128), counsel contends that "the Defendants
11 did not – and could not—move independently on these requests and instead understood that
12 the Motion would apply equally to all parties given the consolidated nature of these
13 proceedings." Because the issues concerning ViewSonic's discovery are relevant to the claims
14 against the remaining Defendants, "the Defendants respectfully request that the Court issue a
15 decision on the pending motion." 5/28/15 Brass Ltr at 2.

16 ViewSonic objects on the grounds that: (1) "neither Chunghwa nor LG
17 Electronics joined Mitsubishi's Motion, nor did either party participate in the extensive meet-
18 and-confer discussions regarding the Motion," and (2) "neither Chunghwa nor LG Electronics
19 signed onto the discovery request." 5/29/15 Heaven Ltr at 1. ViewSonic requests that
20 Mitsubishi's Motion be dismissed as moot.

21 The court's Discovery Protocol required coordination of "discovery in all actions
22 transferred to this MDL" and that "[a]ll CRT Plaintiffs' counsel and Defendants' counsel shall
23 engage in their best efforts to conduct discovery efficiently and without duplication." 4/3/12
24 Discovery Protocol, Dkt 1128 at 14. The Protocol also specifies that: "Defendants shall consult
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27 ¹ Mitsubishi Electric Corporation ("MELCO"), Mitsubishi Electric US, Inc ("MEUS") and Mitsubishi
28 Electric Visual Solutions America, Inc ("MEVSA").

1 in good faith in an effort to propound joint written discovery requests, but to the extent
2 separate written discovery is served, Defendants shall not duplicate interrogatories, requests
3 for admission, and requests for documents.” Id. By requiring that only non-duplicative written
4 discovery be served, the Protocol suggests that Defendants are mandated not to serve
5 independent written discovery unless non-duplicative.

6 The Protocol further specifies:

7 Any discovery requests, including written discovery, deposition notices, or
8 subpoenas served in this MDL proceeding, shall be served on Interim Lead
9 Counsel for Direct Purchaser Plaintiffs and Interim Lead Counsel for Indirect
10 Purchaser Plaintiffs, each State Attorney General, and Liaison Counsel for
11 Individual Action Plaintiffs, who shall be the only individual action plaintiffs’
counsel who must be served with discovery requests and responses, and on
counsel for each defendant.

12 By requiring each discovery request be served on Interim Lead Counsel, Liaison Counsel, each
13 State Attorney General and counsel for each Defendant, the Discovery Protocol keeps all
14 parties informed of all discovery requests in an effort to coordinate the extensive discovery
15 involved in this large and complex MDL.

16 The disposition of the Mitsubishi motion to compel ViewSonic percipient
17 witnesses may implicate the interests of other remaining defendants who may wish to submit a
18 letter brief in support of consideration of the Mitsubishi motion despite Mitsubishi’s own
19 withdrawal. Furthermore, counsel for Chunghwa and LG Electronics raise the broader issue of
20 when can a party reasonably depend on the coordination of discovery to rely upon another
21 party’s discovery efforts? Did the party need to serve an official notice of joinder? Given the
22 intent of the Discovery Protocol, that may be too strict a requirement. Now that a number of
23 parties have settled and are in the process of withdrawing their discovery motions, the
24 undersigned finds that the interests of justice would be served by allowing counsel for any
25 party to this MDL whose interests may be implicated by the withdrawal of a pending motion by
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1 a settling party to submit a letter brief (no later than July 7, 2015) addressing whether the
2 motion should nonetheless remain pending and the reasons therefor.

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4 IT IS SO ORDERED.

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6 Date: June 8, 2015



Vaughn R Walker
United States District Judge (Ret)

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10 The Recommended Order of the Special Master is Accepted and Ordered / Denied / Modified.

11 Date: _____

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14 _____
15 Honorable Samuel Conti
16 United States District Judge
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